

In the Matter of Merchant Mariner's Document of Z-349463-D1 and
all other Seaman Documents

Issued to: WILLIE BLAKELY SAYLORS

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1101

WILLIE BLAKELY SAYLORS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 15 September 1958, an Examiner of the United States Coast Guard at Baltimore, Maryland suspended Appellant's seaman documents for one month upon finding him guilty of misconduct. The two specifications found proved allege that while serving as a messman on the United States SS MARYMAR under authority of the document above described, on 6 December 1957, Appellant wrongfully failed to perform his duty to serve dinner; and, on 7 December 1957, Appellant failed to join his vessel at Long Beach, California.

After considering the evidence, the Examiner rendered the decision in which he concluded that the charge and two specifications had been proved.

FINDINGS OF FACT

On 6 and 7 December 1957, Appellant was serving as a messman on the United States SS MARYMAR and acting under authority of his Merchant Mariner's Document No. Z-349463-D1 while the ship was in the port of Long Beach, California.

It was part of Appellant's regular duties to serve the evening meal on 6 December. He made arrangements with a pantryman to serve the meal and then went ashore after informing the Chief Cook of the arrangements. This was satisfactory to the Chief Cook who was in charge of the Steward Department in the absence of the Chief Steward.

Appellant did not return to the ship before she got under way the next day and departed from Long Beach. Appellant rejoined the ship at San Francisco on 10 December 1957.

Appellant's prior record includes absence without leave in

1946; failure to perform duties in 1949; and assault with a dangerous weapon in 1957.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that Appellant was charged with these offenses because of an alleged assault which was dismissed by the Examiner.

Appellant testified that he made arrangements to have his work done on 6 December before going ashore. Although Appellant failed to join the next day, the Master condoned Appellant's conduct by permitting him return on board rather than obtaining a replacement.

Appearance: Walter H. Sibley, Union Representative of
Baltimore, Maryland, of Counsel

OPINION

The finding that the specification alleging the failure to perform duties on 6 December was proved is reversed and the specification is dismissed.

The Examiner's decision indicates that he accepted as true Appellant's testimony that he had obtained permission from the Chief Cook to have another member of the crew serve the evening meal for Appellant; but that the Examiner did not think the Chief Cook had authority to give such permission. In the absence of any evidence to the contrary, it is assumed that the Chief Cook had such authority as is the usual case in the absence of the Chief Steward. Consequently, there was nothing wrongful in Appellant's conduct with respect to this specification.

Concerning the failure to join on 7 December, Appellant's only excuse is that he fell asleep and awakened too late to catch the ship. The fact that he was allowed to rejoin the ship does not wipe out the offense for the purpose of these proceedings. The vessel sailed shorthanded from Long Beach to San Francisco because of Appellant's conduct.

In view of Appellant's prior record, the order of one month's suspension will be sustained despite the dismissal of the other specification.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 15 September 1958, is

AFFIRMED.

A. C. Richmond
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D.C., this 30th day of July, 1959.